IN THE HIGH COURT OF CHHATTISGARH AT

BILASPUR

Division Bench

MISC.APPEAL (C) NO. 897 OF 2007

APPELLANT

Claimants

1. Bhuddhu S/o Shivmangal aged about 65 years, cast- coal,

2. Sagani Bai, aged about 60 years, W/o Buddhu,

Both are R/o Village Dhanouli, P.S. Gourella, District Bilaspur, (C.G.)

VERSUS

RESPONDENTS

1 Guddu @ Dinesh Gupta , S/o Hanuman Prasad Gupta, cast-Gupta, aged about 28 years, R/o Village Dhobhar, P.S. and Tah. Marwahi, District Bilaspur C.G.

(Non-applicant no. 1)

2. Amar Bahadur Singh, S/o Raghuraj Singh,cast- Rajput, aged about 40 years, R/o Village Arjun Jaitahari,P.S.& Post Jaitahari, District Shahdol,(M.P.)

(Non-applicant no. 2)

3. The Oriental Insurance Company Ltd., Bilaspur, C.G.

(Non-applicant no. 3)

R.R. No. 2249/07
Presented by Shri Dinesh Gupta
Dated 24/07/07

(6)

(2)

MEMO OF APPEAL UNDER SECTION 173 OF THE MOTOR VEHICLE ACT,1988

HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(19)

मामला क्रमांक M.A.C. No. 897/ सन् 2007

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

M.A(C) No. 897 of 2007

Appellants Claimants

1. Bhuddhu, s/o Shivmangal, aged about 65 years, Cast-Coal,
2. Sagani Bai, aged about 60 years, w/o Buddhu

Both are residents of village Dhanouli, P.S. Gourella, Distt. Bilaspur

Versus

RESPONDENTS

1. Guddu @ Dinesh Gupta, s/o Hanuman Prasad Gupta, cast-Gupta, aged about 28 years, r/o village Dhobhar, P.S. and Tah. Marwahi, Distt. Bilaspur (C.G) *(Non applicant no.1)*
2. Amar Bahadur Singh, s/o Raghuraj Singh, Caste Rajput, aged about 40 years, r/o village Arjun Jaitahari, P.S. & Post Jaitahari, Distt. Shahdol (M.P) – *(Non-applicant no.2)*
3. The Oriental insurance Compny Ltd., Bilaspur (C.G) – *(Non applicant no.3)*

Misc. Appeal u/s 173 of the Motor Vehicles Act, 1988

Appearance:

Shri Rajesh Pandey, counsel for the appellants
Shri Sudhir Agrawal, counsel for the insurance Company/ respondent no.3

D.B: **Hon'ble Shri Justice L.C. Bhadoo &**
Hon'ble Shri Justice Sunil Kumar Sinha, J. J

ORAL ORDER
(10.08.2007)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(20)

मामला क्रमांक M.A.C.NO. 897/ सन् 2007

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

L.C.Bhadoo,

The claimants who ~~were~~ father and mother of the deceased Santu, aged about 22 years, have preferred this appeal u/s 173 of the Motor Vehicles Act 1988 for enhancement of the compensation amount awarded by the Tribunal vide Award dated 10th May 2007, whereby the Addl. Motor Accidents Claim Tribunal, Pendra Road, in Claims Case No.43/2006 awarded an amount of Rs.1,79,500/- with interest @ 6% with effect from 25.4.2003, that is from filing of the claim petition.

The brief facts of the claim case are that on 06.02.2003 at about 11.30 a.m. respondent no.1 Guddu @ Dinesh Gupta by driving a Tractor bearing Regn.No.M.P.-18-B/5790 & Trolley No. M.P.18/B/5791 in a rash and negligent manner, committed the accident at Talapara turn of village Dhanauli, as a result of which, the deceased Santu, son of the appellants herein, was crushed under the engine of the Tractor. The claim of the appellants was that he was earning Rs.50/- per day, thereby Rs.1500/- p.m. and through agricultural operations, he was earning Rs.5000/- p.m. and they ~~are~~ were dependents on their son, who used to maintain them.

The learned Tribunal, after considering the evidence adduced by the claimants in para 22 came to the conclusion that Santu was earning Rs.50/- per day as a labourer and in a month he was able to work for 25 days, thereby his monthly income was assessed to be Rs.1250/- per month. However, in para 23, the Tribunal came to the conclusion that the claimants have not been able to establish that Santu was earning Rs.50,000/- per year through agricultural works and even the age of the deceased was also assessed to be 22 years

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(21)

मामला क्रमांक M.A.C 897 सन् 2007

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

In para 25, the Tribunal has held that Santu was earning Rs.15,000/- per year and out of that 1/3rd he was spending on his own expenses. The dependency has been assessed as Rs.10,000/- per year and the multiplier of 17 has been applied, thereby 1,70,000/- has been awarded against the loss of dependency. Apart from this, Rs. 2000/- for funeral expenses, Rs.2500/- against loss of estate & Rs.5000/- against loss of consortium have also been awarded. Thus, in all Rs. 1,79,500/- has been awarded.

Having heard learned counsel for the appellants and having perused the records, we are of the considered opinion that the compensation amount awarded to the appellants is not on the lower side in any manner. The deceased was working as a labourer and his income has rightly been assessed. Under the other heads, Sufficient amounts have been awarded by the tribunal, therefore, the compensation amount awarded to the claimants is not on lower side in any manner.

The appeal being devoid of merit, is liable to be dismissed and it is here by dismissed.

Sd/-
L.C. Bhadoo
Judge

Sd/-
Sunil Kumar Sinha
Judge